

REMARKS

In the most recent Office Action, the Examiner rejected Claims 1 through 7 under 35 U.S.C. § 103(a) as being unpatentable over Widegren et al., U.S. Patent Number 6,374,112, in view of Laakso, U.S. Patent Application Publication Number 2003/0003921 A1, and Cherpantier et al., U.S. Patent Number 5,805,993. Moreover, the Examiner has rejected Claims 8 and 9 under 35 U.S.C. § 103(a) as being unpatentable over Widegren et al., in view of Rikken et al., U.S. Patent Number 6,031,827, and Cherpantier et al., U.S. Patent Number 5,805,993. Applicant respectfully traverses the Examiner's obviousness rejection. Applicant has amended his claims to emphasize this point. Applicant believes the combination of the teachings of Widegren et al. and Laakso fails to teach Applicant's invention as presently claimed.

Applicant advances that the independent Claim 1 requires, amongst other things, "heterogeneous services with different rates", "determining the current relative proportions of traffic of each rate" and "applying a threshold to the loading level the threshold being dependent upon the determined relative proportions." As an example of the invention, according to Claim 1, a different threshold is applied when the traffic is determined as being in relative proportions 10% high-data-rate to 90% voice than when the traffic is determined as being in relative proportions 20% high-data-rate to 80% voice.

In rejecting independent Claim 1, the Examiner asserts that "Cherpentier et al, teaches applying a threshold to the loading level in said cell, the threshold being dependent upon the determined relative proportions (col. 4 lines 22-26)." However this cited passage reads:

means (which can also be represented by the means 3 of FIG.1)  
for determining the load of said lower level cell, and pl means  
(which can also be represented by the means 4 of FIG.1) for  
varying said threshold in accordance with said load.

The load is taught in this cited passage as being a single parameter: note the words "the load of said lower level cell" and "said load" in the cited passage. What is neither taught in the Cherpentier et al. reference, nor in any of the other cited documents is a load

threshold being selected dependent upon the relative proportions of the traffic of different rates making up the load. Specifically as regards Claim 1, what is not taught by the cited art is "applying a threshold to the loading level in said cell, the threshold being dependent upon the determined relative proportions" where determined relative proportions are "current relative proportions of traffic of each rate" where there are "heterogeneous services with different rates" (emphasis added).

Applicants other independent claim, namely Claim 8, has been previously amended to state expressly state that there is "traffic of various rates." It is respectfully submitted that this limitation requires no further consideration and/or search. This is because this limitation is merely to bring Claim 8 more into line with Claim 1, which refers to "heterogeneous services with different rates" and "traffic of each rate." Thus, Claim 1 already discloses traffic of various rates, as now mentioned in amended claim 8.

Amended Claim 8 requires, amongst other things, that "each base transceiver station is arranged to determine intermittently the relative proportions of traffic of each rate," "there being traffic of various rates, and each base transceiver station is arranged to apply a variable threshold to the loading level in the cell, the variable threshold being dependent upon the determined relative proportions." As an example of the invention according to claim 8, a different threshold is applied when the traffic is determined as being in relative proportions 10% high-data-rate to 90% voice, than when the traffic is determined as being in relative proportions 20% high-data-rate to 80% voice.

In rejecting independent Claim 8, the Examiner asserts that "Cherpentier et al, teaches applying a variable threshold being dependent upon the determined relative proportions (col. 4 lines 22-26)." However this cited passage reads:

means (which can also be represented by the means 3 of FIG.1)  
for determining the load of said lower level cell, and pl means  
(which can also be represented by the means 4 of FIG.1) for  
varying, said threshold in accordance with said load.

The load is taught in this cited passage as being a single parameter, noting the words "the load of said lower level cell" and "said load" in the cited passage. What is neither taught

in the Cherpentier et al. reference nor in any of the other cited documents is a load threshold being selected dependent upon the relative proportions of the traffic of different rates making up the load. Specifically, as regards claim 8, what is not taught by the cited art is “the variable threshold being dependent upon the determined relative proportions” where the determined relative proportions are “the relative proportions of traffic of each rate”, “there being traffic of various rates” (emphasis added).

Applicants further submit that one of ordinary skill in the art would not seek to combine teachings of the Laakso and Cherpan-tier references. Applicant submits that the Laakso reference is concerned with adjusting transmission power when a power (“load”) limit is exceeded – see, for example, the abstract. Applicant submits that Cherpan-tier reference is concerned with handover/handoff to another cell when a mobile terminal’s speed level exceeds a certain speed limit (“threshold”, see e.g. abstract and column 4 lines 22 to 26), the speed limit being adjusted dependent on the load of the current cell.

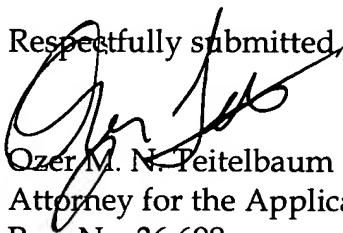
These technical problems and the respective limits considered, namely power and speed respectively, are of such a different nature that the skilled reader would consider the teachings of these two documents to be incompatible. The skilled reader would have no motivation to seek to combine the teachings of these two documents.

Applicants further note that all of the dependent claims are patentable not least on the basis that they depend on an allowable independent claim

Serial No. 09/782359

Applicant believes that a full and complete response has been made to the Examiner's Office Action. Thus, in view of the hereinabove remarks, Applicant respectfully requests allowance of their patent application and its claims. To that end, if the Examiner feels that a conference might expedite the prosecution of this case, the Examiner is cordially invited to call the undersigned.

Respectfully submitted,



Ozer M. N. Teitelbaum  
Attorney for the Applicant  
Reg. No. 36,698  
(973)-386-8803

Date: July 14, 2004

Docket Administrator (Room 3J-219)  
Lucent Technologies Inc.  
101 Crawfords Corner Road  
Holmdel, NJ 07733-3030